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6 The Honorable Karen L. Strombom

7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT TACOMA**

10 WILLIAM DALTON,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON,
14 DEPARTMENT OF CORRECTIONS;
15 JOSEPH LEHMAN and "JANE DOE"
16 LEHMAN, husband and wife, and the
17 marital community composed thereof;
18 JANE ROBINSON and "JOHN DOE"
19 ROBINSON, wife and husband, and the
20 marital community composed thereof;
21 ALICE PAYNE and "JOHN DOE"
22 PAYNE, wife and husband, and the
23 marital community composed thereof,

24 Defendants.

25 NO. C04-5057 KLS

26 STIPULATION AND ORDER
 AMENDING ANSWER

IT IS HEREBY STIPULATED by and between Richard Wooster, counsel for plaintiff herein, Rob McKenna, Attorney General, and Lisa L. Sutton, Assistant Attorney General, counsel for defendants herein, that defendants may amend their Answer to Plaintiff's Complaint to include the following affirmative defense:

THIS MATTER having come before this Court on the presentment of an agreed order to allow the defendants to amend their answer to assert two new defenses in this matter.

IT IS HEREBY ORDERED, the answer is amended as follows to add following affirmative defenses:

- Plaintiff's termination was lawful, was done pursuant to state rules and was made for legitimate and non-retaliatory reasons.
 - Plaintiff's speech is not protected under the first amendment. Defendants would have made the same employment decisions, including the decision to terminate, regardless of plaintiff's speech.

DATED this 1st day of November, 2005.

Karen L. Strombom
Karen L. Strombom
United States Magistrate Judge

ROB MCKENNA
Attorney General

/s/ _____
LISA L. SUTTON, WSBA # 16005
Assistant Attorney General
Attorneys for Defendants

/s/ _____
RICHARD WOOSTER, WSBA # 13752
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of November, 2005, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Richard H. Wooster RICH@MJWMLAW.COM
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Attorney General

/s/Lisa L. Sutton
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